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STATE OF CALIFORNIA
NEW MOTOR VEHICLE BOARD
MINUTES

The New Motor Vehicle Board held a General meeting on September 21, 2005, in Hearing Room #1, at the offices of the New Motor Vehicle Board ("Board").

2. **ROLL CALL**

David W. Wilson, President of the Board, called the General meeting to order at 9:18 a.m.

Present:	Robert V. Branzuela	Tom Novi
	Robert T. (Tom) Flesh	Executive Director
	David C. Lizárraga	Bill Brennan
	Haig Papaian	Incoming Executive Director
	Sushil K. Sharma	Howard Weinberg
	Alan J. Skobin	General Counsel
	Glenn E. Stevens	Robin Parker
	David W. Wilson	Senior Staff Counsel

Absent: Andy Robles

3. **INTRODUCTION AND WELCOME TO WILLIAM ("BILL") G. BRENNAN, INCOMING EXECUTIVE DIRECTOR, UPON TOM NOVI'S RETIREMENT OCTOBER 3, 2005**

Mr. Novi introduced the members and audience to Bill Brennan, incoming Executive Director. Mr. Brennan thanked Mr. Novi and the members for the trust and confidence they have placed in him, and indicated that he was looking forward to working with the Board members individually and collectively.

4. **APPROVAL OF THE MINUTES FROM THE JULY 7, 2005, GENERAL MEETING**

Mr. Flesh moved to adopt the July 7, 2005, General Board meeting minutes. Mr. Stevens seconded the motion. The motion carried unanimously.

5. **CLOSED EXECUTIVE SESSION**

Pursuant to Government Code section 11126(c)(3), Vehicle Code section 3008(a), and Title 13, California Code of Regulations, sections 581 and 588, the Board shall convene in a closed Executive Session to deliberate on the decisions to be reached upon the evidence introduced in proceedings that were conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Mr. Stevens, Board Attorney Member, presided over the consideration of Agenda items 5(a)-(b). The dealer members did not participate in these items because they involved a dispute between a franchisee and franchisor.

a. **CONSIDERATION OF PROPOSED DECISION**

S & C MOTORS, INC., dba S & C KIA v. KIA MOTORS AMERICA, INC.
Protest No. PR-1859-03

Consideration of the Administrative Law Judge's Proposed Decision, by the Public members of the Board.

Oral arguments were presented before the Public members of the Board. Michael M. Sieving, Esq., of the Law Offices of Michael M. Sieving, represented Protestant. Maurice Sanchez, Esq., of Baker & Hostetler represented Respondent.

The Public members of the Board deliberated in closed Executive Session. Mr. Stevens moved to adopt the Administrative Law Judge's Proposed Decision. Mr. Lizárraga seconded the motion. The motion carried by a four-to-one vote with Mr. Sharma opposed.

6. **OPEN SESSION**

The Public members returned to Open Session and Mr. Stevens announced the decision in Agenda item 5(a).

5. **CLOSED EXECUTIVE SESSION**

Pursuant to Government Code section 11126(c)(3), Vehicle Code section 3008(a), and Title 13, California Code of Regulations, sections 581 and 588, the Board shall convene in a closed Executive Session to deliberate on the decisions to be reached upon the evidence introduced in proceedings that were conducted in accordance with Chapter 5 (commencing with section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

b. **CONSIDERATION OF PROPOSED ORDER**

SOUTAR'S NISSAN, a California corporation v. NISSAN NORTH AMERICA, INC.
Protest No. PR-1825-02

Consideration of the Administrative Law Judge's Proposed Order Granting
Respondent's Motion to Dismiss Protest, by the Public members of the Board.

There were no closed Executive Session deliberations in Agenda item 5(b).

6. **OPEN SESSION**

Mr. Stevens announced that counsel stipulated to continue Agenda item 5(b) until the Board's November 16, 2005, General meeting. Mr. Wilson presided over the remaining agenda items.

7. **REPORT CONCERNING THE MOTORS HOLDING INVESTMENT PLAN FOR
RANCHO MIRADA CHEVROLET (FORMERLY GATEWAY CHEVROLET) AND THE
STATUTORY REQUIREMENTS OF A DEALER DEVELOPMENT PROGRAM (VEH.
CODE § 11713.3(O)(2)(B))**

At the July 7, 2005, General meeting, the members requested that Tom Novi contact Joe Chrzanowski, Executive Director, Dealer Network Planning & Investments, General Motors Corporation, to ascertain the extent to which the dealer candidate invested in the Rancho Mirada Chevrolet dealership. The members were provided with a memorandum from Mr. Novi concerning the status of Rancho Mirada Chevrolet, a letter from Mr. Novi to Mr. Chrzanowski requesting additional information, a June 29, 2005, letter from Sherwood Oklejas, CEO, Anaheim Chevrolet, and an August 31, 2005, letter and supporting documents from Mr. Chrzanowski. After a lengthy discussion, it was determined that the Board would merely monitor this situation and if so desired, Mr. Oklejas could file a petition with the Board.

8. **ANNUAL UPDATE CONCERNING THE NUMBER OF MONTHLY HITS TO THE
BOARD'S WEBSITE AND WHERE INFORMATION IS BEING SOUGHT -
ADMINISTRATION COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel concerning the annual report on user "hits" to the Board's website. Miss Kindel reported that in last fiscal year, the website received a total of 29,034 visitors, with an average of 1,327 hits per day.

9. **CONSIDERATION OF TRANSLATING THE CONSUMER MEDIATION SERVICES
PORTION OF THE BOARD'S WEBSITE INTO SPANISH - ADMINISTRATION
COMMITTEE**

The members were provided with a memorandum from Tom Novi and Dawn Kindel concerning translating the mediation services portion of the website into Spanish. The members thanked the staff for their efforts in translating the website. Mr. Flesh moved to adopt the staff recommendation and "publish" the translated materials on the Board's website. Mr. Lizárraga seconded the motion. The motion carried unanimously.

10. **STATUS REPORT CONCERNING THE BOARD'S FINANCIAL CONDITION FOR**

FISCAL YEAR 2004-2005 - FISCAL COMMITTEE

The members were provided with a memorandum from Tom Novi, Dawn Kindel, and Linda Lighter concerning the Board financial condition report for fiscal year 2004-2005. Mr. Novi reported that the Board expended 84% of its appropriated budget for fiscal year 2004-2005.

11. **CONSIDERATION OF IMPACT OF PROPOSED DMV REGULATION THAT CREATES A TWO-YEAR LICENSE RENEWAL FOR DEALERS, MANUFACTURERS, AND DISTRIBUTORS ON THE BOARD'S REVENUE COLLECTION - FISCAL COMMITTEE**

The members were provided with a memorandum from Tom Novi, Dawn Kindel, and Linda Lighter concerning the impact of proposed DMV regulation that creates a two-year license renewal for dealers, manufacturers, and distributors on the Board's revenue collection. Mary Garcia, Branch Chief, Occupational Licensing, was available to answer member questions. Mr. Sharma moved to adopt the staff recommendation and maintain the current fee structure of \$225 per dealer, and \$.338 per vehicle sold in California, with a minimum of \$225.00, for manufacturers and distributors, in light of the Department of Motor Vehicles two-year Occupational License renewal. Mr. Stevens seconded the motion. The motion carried unanimously.

12. **STATUS REPORT ON PARTICIPANT AND AUDIENCE RESPONSES TO THE QUESTIONNAIRE CONCERNING THE BOARD'S 4TH ANNUAL INDUSTRY ROUNDTABLE - GOVERNMENT AND INDUSTRY AFFAIRS COMMITTEE**

The members were provided with a memorandum from Tom Novi and Robin Parker concerning the evaluation of the 4th Annual Industry Roundtable. Ms. Parker reported that the feedback received from attendees and participants was favorable. Ms. Parker also noted that the date and location for the 5th Annual Industry Roundtable has been changed to April 4, 2006, in Sacramento at the Hyatt Hotel.

13. **CONSIDERATION OF PROPOSED REGULATORY AMENDMENT THAT ADJUSTS HOW THE ANNUAL BOARD FEE IS CHARGED TO DEALERS, MANUFACTURERS, AND DISTRIBUTORS IN LIGHT OF THE PROPOSED TWO-YEAR LICENSE RENEWAL (13 CCR § 553) - POLICY AND PROCEDURE COMMITTEE**

The members were provided with a memorandum from Tom Novi and Howard Weinberg concerning the consideration of a proposed regulatory amendment to Section 553 of Title 13 of the California Code of Regulations that adjusts how the annual Board fee is charged to dealers, manufacturers, and distributors in light of the proposed two-year license renewal. Mr. Skobin moved to adopt the proposed regulatory amendment. Mr. Sharma seconded the motion. The motion carried unanimously.

14. **DISCUSSION CONCERNING LEGISLATION OF GENERAL INTEREST - POLICY AND**

PROCEDURE COMMITTEE

- (1) Assembly Bill 68 (Assembly Member Montanez) [Chaptered July 26, 2005]
- (2) Senate Bill 114 (Senator Bowen)

The members were provided with a memorandum from Tom Novi and Robin Parker summarizing the pending legislation that impacts the Board and pending legislation of general interest. The summary analyzes the current law, the legislation, and the impact on the Board. Ms. Parker reported that the Car Buyer's Bill of Rights takes effect July 1, 2006.

15. EXECUTIVE DIRECTOR'S REPORT

- a. Administrative Matters.
- b. Status of Protests.
- c. Status of Petitions.
- d. Status of Appeals.
- e. Judicial Review.
- f. Notices Filed Pursuant to Vehicle Code sections 3060/3070 and 3062/3072.
- g. Other.

Mr. Novi provided the members with a Report on Administrative Matters that identified all pending projects, the Board staff and committee assigned, estimated completion dates, and status. Mr. Novi indicated that all pending projects were on schedule.

The members were also provided with a copy of the Executive Director's Report. Ms. Parker reported that one new termination case was filed, and one case was dismissed. Mr. Weinberg reported on the status of the pending court cases. He noted that briefs were being filed and a hearing date was set for October 14, 2005, in *Camarilla, Inc., dba V.I.P. Auto Upholstery; Jeffrey L. Willis, an individual, Petitioners v. Executive Director of the New Motor Vehicle Board, Respondent; Mercedes-Benz USA, LLC, Real Party In Interest*. Mr. Weinberg also noted that the Board was waiting for a decision after the Judge requested letter briefs in *Kia Motors America, Inc., Petitioner v. New Motor Vehicle Board, Respondent; S & C Motors, Inc., Real Party In Interest*.

Mr. Flesh requested that the Board agendaized for consideration the presentation of a resolution to Tom Novi retired Executive Director, for his service to the public.

16. CLOSED EXECUTIVE SESSION

Pursuant to Government Code section 11126(a)(1), the Board shall convene in a closed Executive Session.

- a. **ORAL INTERVIEW OF THE ADMINISTRATIVE LAW JUDGE CANDIDATE, BY ALL MEMBERS OF THE BOARD - ADMINISTRATION COMMITTEE**

The Public and Dealer members of the Board conducted an oral interview of the Administrative Law Judge candidate.

- b. **CONSIDERATION OF THE ADMINISTRATIVE LAW JUDGE NOMINEE, BY**

ALL MEMBERS OF THE BOARD - ADMINISTRATION COMMITTEE

The Public and Dealer members of the Board considered the administrative law judge nominee, Marybelle Archibald. Mr. Skobin moved to offer a position to Ms. Archibald. Mr. Stevens seconded the motion. The motion carried unanimously.

c. DISCUSSION AND CONSIDERATION OF A PERSONNEL MATTER - EXECUTIVE COMMITTEE

The Public and Dealer members of the Board discussed a personnel matter in closed Executive Session.

17. OPEN SESSION

The members of the Board returned to open session. Mr. Stevens announced the Decision in Agenda item 16(b).

18. ADJOURNMENT

The members thanked Mr. Novi for his dedication and service to the Board. With no further business to discuss, the meeting was adjourned at 12:07 p.m.

Submitted by

WILLIAM G. BRENNAN
Executive Director

APPROVED: _____
David W. Wilson
President
New Motor Vehicle Board